

Senate File 408 - Introduced

SENATE FILE 408
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO SSB 1087)

A BILL FOR

1 An Act relating to the economic development authority,
2 including certain tax credit programs, the Iowa wine, beer,
3 and spirits promotion board, and the beer and liquor control
4 fund, and including applicability provisions.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

TAX CREDITS

Section 1. Section 15.119, subsection 2, paragraphs d, e, and h, Code 2023, are amended to read as follows:

d. The tax credits for investments in qualifying businesses issued pursuant to [section 15E.43](#), and the tax credits for investments in an innovation fund pursuant to [section 15E.52](#).

In allocating tax credits pursuant to [this subsection](#), the authority shall allocate ~~two million~~ an aggregate amount of tax credits that is not more than ten million dollars for purposes ~~of this paragraph, unless the authority determines that the tax credits awarded will be less than that amount.~~ On or before June 30 of each year, the authority shall determine the amount of the aggregate amount of tax credits that shall be allocated for tax credits issued for investments in qualifying businesses pursuant to [section 15E.43](#), and the amount that shall be allocated for tax credits for investments in an innovation fund pursuant to [section 15E.52](#).

~~e. The tax credits for investments in an innovation fund pursuant to [section 15E.52](#). In allocating tax credits pursuant to [this subsection](#), the authority shall allocate eight million dollars for purposes of this paragraph, unless the authority determines that the tax credits awarded will be less than that amount.~~

h. The renewable chemical production tax credit program administered pursuant to [sections 15.315 through 15.322](#). In allocating tax credits pursuant to [this subsection](#) for the fiscal year beginning July 1, 2021, and for each fiscal year ~~thereafter~~ beginning before July 1, 2037, the authority shall not allocate more than five million dollars for purposes of this paragraph. This paragraph is repealed July 1, ~~2030~~ 2039.

Sec. 2. Section 15.316, subsection 3, Code 2023, is amended to read as follows:

3. “*Building block chemical*” means a molecule converted from biomass feedstock as a first product or a secondarily

1 derived product that can be further refined into a higher-value
 2 chemical, material, or consumer product. "*Building block*
 3 *chemical*" includes but is not limited to high-purity glycerol,
 4 oleic acid, lauric acid, methanoic or formic acid, arabonic
 5 acid, erythronic acid, glyceric acid, glycolic acid, lactic
 6 acid, 3-hydroxypropionate, propionic acid, malonic acid,
 7 ~~serine~~, succinic acid, fumaric acid, malic acid, aspartic
 8 acid, 3-hydroxybutyrolactone, acetoin, ~~threonine~~, itaconic
 9 acid, furfural, levulinic acid, glutamic acid, xylonic acid,
 10 xylaric acid, xylitol, arabitol, citric acid, aconitic acid,
 11 5-hydroxymethylfurfural, ~~lysine~~, gluconic acid, glucaric acid,
 12 sorbitol, gallic acid, ferulic acid, butyric acid, nonfuel
 13 butanol, ~~nonfuel ethanol~~, or such additional molecules as may
 14 be included by the authority by rule after consultation with
 15 appropriate experts from Iowa state university, including
 16 but not limited to the Iowa state university center for
 17 biorenewable chemicals.

18 Sec. 3. Section 15.318, subsection 1, Code 2023, is amended
 19 by adding the following new paragraph:

20 NEW PARAGRAPH. *f.* All complete applications submitted
 21 by eligible businesses shall be reviewed and scored on a
 22 competitive basis by the authority pursuant to rules adopted
 23 by the authority.

24 Sec. 4. Section 15.318, subsection 2, paragraphs c and d,
 25 Code 2023, are amended to read as follows:

26 *c.* An eligible business shall fulfill all the requirements
 27 of the program and the agreement before ~~receiving~~ the authority
 28 issues the business a tax credit certificate or ~~entering~~ enters
 29 into a subsequent agreement with the business under this
 30 section. The authority may decline to enter into a subsequent
 31 agreement with the business under this section or to issue a
 32 tax credit if an agreement is not successfully fulfilled.

33 *d.* Upon establishing that all requirements of the program
 34 and the agreement have been fulfilled, the authority shall
 35 issue a tax credit ~~and related tax credit~~ certificate to the

1 eligible business stating the amount of renewable chemical
2 production tax credit the eligible business may claim.

3 Sec. 5. Section 15.318, subsection 3, paragraphs a, d, and
4 e, Code 2023, are amended to read as follows:

5 a. The maximum amount of tax credit that the authority may
6 ~~be issued~~ issue under section 15.319 to an eligible business
7 for the production of renewable chemicals in a calendar year
8 ~~shall not exceed the following:~~

9 ~~(1) In the case of an eligible business that has been in~~
10 ~~operation in the state for five years or less at the time of~~
11 ~~application, is~~ one million dollars.

12 ~~(2) In the case of an eligible business that has been in~~
13 ~~operation in the state for more than five years at the time of~~
14 ~~application, five hundred thousand dollars.~~

15 d. ~~An~~ The authority shall not issue an eligible business
16 ~~shall not receive more than five tax credits~~ credit
17 certificates under the program.

18 e. ~~The authority shall issue tax credits under the program~~
19 ~~on a first-come, first-served basis until the maximum amount of~~
20 ~~tax credits allocated pursuant to section 15.119, subsection~~
21 ~~2, paragraph "h", is reached. The authority shall maintain a~~
22 ~~list of successful applicants under the program, so that if the~~
23 ~~maximum aggregate amount of tax credits is reached in a given~~
24 ~~fiscal year, eligible businesses that successfully applied~~
25 ~~but for which tax credits were not issued shall be placed on~~
26 ~~a wait list in the order the eligible businesses applied and~~
27 ~~shall be given priority for receiving tax credits in succeeding~~
28 ~~fiscal years. Placement on a wait list pursuant to this~~
29 ~~paragraph shall not constitute a promise binding the state.~~
30 ~~The availability of a tax credit and issuance of a tax credit~~
31 ~~certificate pursuant to~~ this subsection ~~in a future fiscal year~~
32 ~~is contingent upon the availability of tax credits in that~~
33 ~~particular fiscal year. In each fiscal year beginning on or~~
34 ~~after July 1, 2023, and ending on or before June 30, 2036, the~~
35 authority may award an amount of tax credits under the program

1 not to exceed the maximum aggregate amount allocated in section
2 15.119, subsection 2, paragraph "h".

3 Sec. 6. Section 15.319, subsection 1, Code 2023, is amended
4 to read as follows:

5 1. An eligible business that has entered into an agreement
6 pursuant to [section 15.318](#) may claim a tax credit in an amount
7 equal to the product of five cents multiplied by the number
8 of pounds of renewable chemicals produced in this state from
9 biomass feedstock by the eligible business during the calendar
10 year in excess of the eligible business's pre-eligibility
11 production threshold. However, an eligible business shall
12 not receive a tax credit for the production of a secondarily
13 derived building block chemical if that chemical is also the
14 subject of a credit at the time of production as a first
15 product. The renewable chemical production tax credit shall
16 not be available for any renewable chemical produced before the
17 2017 calendar year or after the ~~2026~~ 2035 calendar year.

18 Sec. 7. Section 15.320, subsection 1, Code 2023, is amended
19 to read as follows:

20 1. For purposes of [this section](#), *"successful tax credit*
21 *applicant"* includes, with respect to each calendar year, an
22 eligible business that was issued a tax credit certificate for
23 production of renewable chemicals during that calendar year,
24 ~~and an eligible business that successfully applied for a tax~~
25 ~~credit for the production of renewable chemicals during that~~
26 ~~calendar year, but was not issued a tax credit and was instead~~
27 ~~placed on a wait list pursuant to section 15.318, subsection~~
28 ~~3, paragraph "e".~~

29 Sec. 8. Section 15.320, subsection 2, Code 2023, is amended
30 by striking the subsection and inserting in lieu thereof the
31 following:

32 2. By January 31 of each year, the board, in cooperation
33 with the department of revenue, shall submit to the general
34 assembly and to the governor a report describing the activities
35 of the program for the most recent calendar year for which the

1 tax credit application period has ended pursuant to section
2 15.318, subsection 1, paragraph "d". The report shall, at a
3 minimum, include the following information:

4 *a.* The aggregate number of pounds, and a list of each type,
5 of renewable chemicals produced in Iowa by all successful
6 tax credit applicants during the calendar year prior to the
7 calendar year for which the successful applicants first applied
8 for a tax credit under the program.

9 *b.* The aggregate number of pounds, and a list of each type,
10 of renewable chemicals produced in Iowa by all successful tax
11 credit applicants during each calendar year.

12 *c.* The number of employees located in Iowa of all successful
13 tax credit applicants during the calendar year prior to the
14 calendar year for which the successful applicants first applied
15 for a tax credit under the program.

16 *d.* The number of employees located in Iowa of all successful
17 tax credit applicants during each calendar year.

18 *e.* For each eligible business issued a renewable chemical
19 production tax credit during each calendar year:

20 (1) The identity of the eligible business.

21 (2) The amount of the tax credit.

22 (3) The manner in which the eligible business first
23 qualified as an eligible business under section 15.317,
24 subsection 4, whether by organizing, expanding, or locating in
25 the state.

26 *f.* The total amount of all renewable chemical production tax
27 credits claimed during each calendar year, and the portion of
28 each claim issued as a refund.

29 Sec. 9. Section 15.320, subsection 3, Code 2023, is amended
30 to read as follows:

31 3. To protect the presumption of confidentiality
32 established in [section 15.318, subsection 5](#), the board shall
33 report all information in an aggregate form to prevent,
34 as much as possible, information being attributable to any
35 particular eligible business, except as provided in subsection

1 2, paragraph ~~"k"~~ "e".

2 Sec. 10. Section 15.322, Code 2023, is amended to read as
3 follows:

4 **15.322 Future repeal.**

5 Section 15.315, 15.316, 15.317, 15.318, 15.319, 15.320,
6 15.321, and this section, are repealed July 1, ~~2030~~ 2039.

7 Sec. 11. Section 15E.43, subsection 2, paragraphs b and c,
8 Code 2023, are amended to read as follows:

9 *b.* The maximum amount of a tax credit that may be issued
10 per ~~calendar~~ fiscal year to a natural person and the person's
11 spouse or dependent shall not exceed one hundred thousand
12 dollars combined. For purposes of this paragraph, a tax
13 credit issued to a partnership, limited liability company, S
14 corporation, estate, or trust electing to have income taxed
15 directly to the individual shall be deemed to be issued to
16 the individual owners based upon the pro rata share of the
17 individual's earnings from the entity. For purposes of this
18 paragraph, *"dependent"* has the same meaning as provided by the
19 Internal Revenue Code.

20 *c.* The maximum amount of tax credits that may be issued
21 per ~~calendar~~ fiscal year for equity investments in any one
22 qualifying business shall not exceed five hundred thousand
23 dollars.

24 Sec. 12. Section 15E.44, subsection 1, Code 2023, is amended
25 to read as follows:

26 1. In order for an equity investment to qualify for a
27 tax credit, the business in which the equity investment
28 is made shall, within ~~one hundred twenty~~ sixty days of the
29 date of the first investment, notify the authority of the
30 names, addresses, shares issued, consideration paid for the
31 shares, and the amount of any tax credits, of all shareholders
32 who may initially qualify for the tax credits. The list
33 of shareholders who may qualify for the tax credits shall
34 be amended as new equity investments are sold or as any
35 information on the list shall change.

1 Sec. 13. Section 15E.44, subsection 2, Code 2023, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *0e.* The business is a business engaged
4 primarily in advanced manufacturing, biosciences, finance,
5 insurance, information technology, or educational technology.

6 Sec. 14. Section 15E.44, subsection 4, Code 2023, is amended
7 to read as follows:

8 4. After verifying the eligibility of a qualifying
9 business, and an investor's investment in the qualifying
10 business, the authority shall issue a tax credit certificate
11 to be included with the equity investor's tax return. The tax
12 credit certificate shall contain the taxpayer's name, address,
13 tax identification number, the amount of credit, the name of
14 the qualifying business, and other information required by the
15 department of revenue. The tax credit certificate, unless
16 rescinded by the authority, shall be accepted by the department
17 of revenue as payment for taxes imposed pursuant to chapter
18 422, subchapters II, III, and V, and in chapter 432, and for
19 the moneys and credits tax imposed in section 533.329, subject
20 to any conditions or restrictions placed by the authority upon
21 the face of the tax credit certificate and subject to the
22 limitations of section 15E.43.

23 Sec. 15. Section 15E.52, subsection 1, paragraph c, Code
24 2023, is amended to read as follows:

25 *c.* "*Innovative business*" means a business applying novel
26 or original methods to the manufacture of a product or the
27 delivery of a service. "*Innovative business*" includes but is
28 not limited to a business engaged in the industries of advanced
29 manufacturing, biosciences, ~~and~~ information technology, or
30 educational technology.

31 Sec. 16. Section 15E.52, subsection 5, paragraph a, Code
32 2023, is amended to read as follows:

33 *a.* To receive a tax credit, a taxpayer must submit an
34 application to the board. The board shall issue certificates
35 under this section on a first-come, first-served basis, which

1 certificates may be redeemed for tax credits. The board shall
2 issue such certificates so that not more than the amount
3 allocated for such tax credits under section 15.119, subsection
4 2, may be claimed. ~~The board shall not issue a certificate~~
5 ~~before September 1, 2014.~~

6 Sec. 17. Section 15E.52, subsection 5, paragraph b, Code
7 2023, is amended by striking the paragraph.

8 Sec. 18. Section 15E.52, subsection 8, Code 2023, is amended
9 to read as follows:

10 8. The board shall not certify an innovation fund after June
11 30, 2023 2028.

12 Sec. 19. Section 15E.52, subsection 10, paragraph b, Code
13 2023, is amended by striking the paragraph.

14 Sec. 20. Section 422.10B, Code 2023, is amended to read as
15 follows:

16 **422.10B Renewable chemical production tax credit.**

17 The taxes imposed under [this subchapter](#), less the credits
18 allowed under [section 422.12](#), shall be reduced by a renewable
19 chemical production tax credit allowed under [section 15.319](#).
20 This section is repealed January 1, ~~2033~~ 2041.

21 Sec. 21. Section 422.33, subsection 22, Code 2023, is
22 amended to read as follows:

23 22. The taxes imposed under [this subchapter](#) shall be reduced
24 by a renewable chemical production tax credit allowed under
25 section 15.319. [This subsection](#) is repealed January 1, ~~2033~~
26 2041.

27 Sec. 22. APPLICABILITY.

28 1. The following apply to all applications submitted to the
29 renewable chemical production tax credit program on or after
30 July 1, 2023:

31 a. The section of this division of this Act amending section
32 15.316, subsection 3.

33 b. The section of this division of this Act amending section
34 15.318, subsection 1.

35 c. The section of this division of this Act amending section

1 15.318, subsection 3, paragraphs "a", "d", and "e".

2 2. The following apply to all eligible businesses placed on
3 a wait list pursuant to section 15.318, subsection 3, paragraph
4 "e", on or before June 30, 2023:

5 a. The portion of the section of this division of this Act
6 amending section 15.318, subsection 3, paragraph "e".

7 b. The section of this division of this Act amending section
8 15.320, subsection 1.

9 3. The following apply to all applications submitted to
10 the economic development authority's board for investments in
11 qualifying businesses, administered pursuant to sections 15E.41
12 through 15E.46, on or after July 1, 2023:

13 a. The section of this division of this Act amending section
14 15E.44, subsection 1.

15 b. The section of this division of this Act enacting section
16 15E.44, subsection 2, paragraph "0e".

17 4. The following applies to all applications submitted
18 to the economic development authority's board for innovation
19 fund investment tax credits, administered pursuant to section
20 15E.52, on or after July 1, 2023:

21 The section of this division of this Act amending section
22 15E.52, subsection 1, paragraph "c".

23 5. The following applies to all applications submitted for
24 innovation fund tax credits, administered pursuant to section
25 15E.52, placed on a wait list pursuant to section 15E.52,
26 subsection 5, paragraph "b":

27 The section of this division of this Act amending section
28 15E.52, subsection 5, paragraph "b".

29 DIVISION II

30 IOWA WINE, BEER, AND SPIRITS PROMOTION BOARD

31 Sec. 23. Section 15E.116, Code 2023, is amended to read as
32 follows:

33 15E.116 Iowa wine, and beer, and spirits promotion board.

34 An Iowa wine, and beer, and spirits promotion board is
35 created. The board consists of ~~three~~ four members appointed

1 by the director of the ~~economic development~~ authority. Each
 2 member shall serve a term of two years on the board. One member
 3 shall represent the authority, one member shall represent the
 4 Iowa wine makers, ~~and~~ one member shall represent the Iowa beer
 5 makers, and one member shall represent Iowa distilleries. The
 6 board shall advise the authority on the best means to promote
 7 wine, and beer, and spirits made in Iowa.

8 Sec. 24. Section 15E.117, Code 2023, is amended to read as
 9 follows:

10 **15E.117 Promotion of Iowa wine, and beer, and spirits.**

11 1. The ~~economic development~~ authority shall consult with
 12 the Iowa wine, and beer, and spirits promotion board on the
 13 best means to promote wine, and beer, and spirits made in Iowa.

14 2. The authority ~~has~~ shall have the authority to contract
 15 with private persons for the promotion of beer, and wine, and
 16 spirits made in Iowa.

17 3. Moneys appropriated to the authority pursuant to
 18 sections 123.143 and 123.183, and moneys transferred to the
 19 authority pursuant to section 123.17, subsection 8A, may
 20 be used by the authority for the purposes of this section,
 21 including administrative expenses incurred under this section.

22 Sec. 25. Section 123.17, Code 2023, is amended by adding the
 23 following new subsection:

24 NEW SUBSECTION. 8A. After any transfers provided for
 25 in subsections 3, 5, 6, 7, and 8 are made, and before any
 26 other transfer to the general fund, the department of commerce
 27 shall transfer to the economic development authority from the
 28 beer and liquor control fund the lesser of two hundred fifty
 29 thousand dollars or one percent of the gross sales of native
 30 distilled spirits by all class "A" native distilled spirits
 31 license holders made by the division for the purposes of
 32 promoting Iowa wine, beer, and spirits.

33 EXPLANATION

34 The inclusion of this explanation does not constitute agreement with
 35 the explanation's substance by the members of the general assembly.

1 This bill relates to the economic development authority,
2 including certain tax credit programs, the Iowa wine, beer, and
3 spirits promotion board, and the beer and liquor control fund.
4 The bill is divided into two divisions.

5 DIVISION I — TAX CREDITS. Under current law, the economic
6 development authority (authority) is required to allocate \$2
7 million in tax credits (credits) for investments in qualifying
8 businesses and allocate \$8 million in credits for investments
9 in an innovation fund. This division of the bill requires the
10 authority to allocate an aggregate amount of credits that is
11 not more than \$10 million for both programs. On or before June
12 30 of each year, the authority shall determine the amount of
13 the aggregate amount of credits that shall be allocated for
14 credits issued for investments in qualifying businesses, and
15 the amount that shall be allocated for credits for investments
16 in an innovation fund.

17 The bill extends the future repeal date for the renewable
18 chemical program from July 1, 2030, to July 1, 2036. The bill
19 also extends the availability of the renewable chemical program
20 credit for any renewable chemical produced prior to the end of
21 calendar year 2035, rather than the end of calendar year 2026.

22 Under the bill, serine, threonine, lysine, and nonfuel
23 ethanol are removed from the definition of "building block
24 chemical" for purposes of the renewable chemical program
25 (chemical program). All completed applications submitted by
26 eligible businesses to the chemical program must be reviewed
27 and scored on a competitive basis by the authority pursuant to
28 rules adopted by the authority, and \$1 million is the maximum
29 amount of credit that may be issued to an eligible business in
30 a calendar year. Under current law, if an eligible business
31 has been in operation in the state for five years or less at
32 the time of application, the maximum credit is \$1 million. If
33 the business has been in operation more than five years, the
34 maximum is \$500,000. The bill eliminates the wait list the
35 authority must currently maintain for the chemical program.

1 Under the bill, the authority may award an amount of credits
2 under the chemical program not to exceed the maximum aggregate
3 amount allocated in Code section 15.119(2)(h) for each fiscal
4 year beginning on or after July 1, 2023, and ending on or
5 before June 30, 2036. Information regarding the chemical
6 program that must be submitted to the general assembly and
7 to the governor by January 31 each year is detailed in the
8 bill and differs from the requirements under current law. The
9 future repeal of the chemical program is extended from July 1,
10 2030, to July 1, 2039. The bill extends the future repeal of
11 the chemical program credit allowed under Code sections 422.10B
12 and 422.33 from January 1, 2033, to January 1, 2041.

13 For investments in qualifying businesses, the bill changes
14 the maximum amount of a credit that may be issued to a natural
15 person and the person's spouse or dependent from a calendar
16 year basis to a fiscal year basis. The maximum amount of
17 credits that may be issued for equity investments in any one
18 qualifying business also changes from a calendar year to a
19 fiscal year. In order for an equity investment to qualify
20 for a credit, the business in which the equity investment is
21 made, within 60 days of the date of the first investment, must
22 provide the authority with information as detailed in the
23 bill. Under current law, the business must do so within 120
24 days. In order to be a qualifying business in which an equity
25 investment may be made and qualify for a credit, the bill adds
26 an additional requirement that the business must be a business
27 engaged primarily in advanced manufacturing, biosciences,
28 finance, insurance, information technology, or educational
29 technology. The bill requires the authority to verify the
30 eligibility of a qualifying business and an investor's
31 investment in the qualifying business prior to issuing a credit
32 certificate to the investor.

33 For purposes of innovation fund investment credits, the
34 bill adds "educational technology" to the definition of
35 "innovative business". The bill eliminates the wait list

1 for the innovation fund tax credit and extends the time the
2 authority's board may certify an innovation fund from June 30,
3 2023, to June 30, 2028.

4 The bill makes conforming changes to Code sections
5 15.318(2)(c)-(d), and 15.354(4)(a)-(f).

6 The sections of this division of the bill amending Code
7 sections 15.316(3), 15.318(1), 15.318(3)(a), 15.318(3)(d),
8 and 15.318(3)(e) apply to all applications submitted to the
9 chemical program on or after July 1, 2023. The sections of the
10 division of the bill amending Code sections 15.318(3)(e) and
11 15.320(1) apply to all eligible businesses placed on a wait
12 list for the program pursuant to Code section 15.318(3)(e) on
13 or before June 30, 2023.

14 The sections of this division of the bill amending Code
15 section 15E.44(1) and enacting Code section 15E.44(2)(0e) apply
16 to all applications submitted to the authority's board for
17 investments in qualifying businesses, administered pursuant to
18 Code sections 15E.41 through 15E.46, on or after July 1, 2023.

19 The section of this division of the bill amending Code
20 section 15E.52(1)(c) applies to all applications submitted
21 to the authority's board for innovation fund investment tax
22 credits, administered pursuant to Code section 15E.52, on or
23 after July 1, 2023. The section of this division of the bill
24 amending Code section 15E.52(5)(b) applies to all applications
25 submitted for innovation fund tax credits, administered
26 pursuant to Code section 15E.52, placed on a wait list pursuant
27 to Code section 15E.52(5)(b).

28 DIVISION II — IOWA WINE, BEER, AND SPIRITS PROMOTION
29 BOARD. This division of the bill modifies the Iowa wine and
30 beer promotion board (promotion board) by adding spirits, and
31 adds a fourth member to the promotion board to represent Iowa
32 distilleries. The current promotion board has three members.
33 In addition to advising the authority on the promotion of
34 Iowa-made beer and wine, the bill requires the promotion board
35 to advise the authority on the promotion of spirits made in

1 Iowa. The authority must consult with the promotion board on
2 the best means to promote spirits made in Iowa, and permits the
3 authority to contract with private persons for the promotion
4 of spirits made in Iowa.

5 The bill requires the department of commerce, after certain
6 other transfers required by current law from the beer and
7 liquor control fund are made, to transfer to the authority the
8 lesser of \$250,000 or 1 percent of the gross sales of native
9 distilled spirits by all class "A" native distilled spirits
10 license holders made by the alcoholic beverages division. The
11 transferred moneys may be used by the authority to promote
12 wine, beer, and spirits made in Iowa, and for administrative
13 expenses related to such promotion.